

**DEPARTMENT OF STATE REVENUE
LETTER OF FINDINGS NUMBER 06-0078
RESPONSIBLE OFFICER
SALES TAX
For Tax Period July 2004-March 2005**

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Issue

I. Sales Tax -Responsible Officer Liability

Authority: IC § 6-2.5-9-3; IC § 6-8.1-5-1(b).

The taxpayer protests the assessment of corporate sales taxes against him as a responsible officer.

Statement of Facts

The taxpayer was an officer of a corporation that sold recreational vehicles. The corporation did not remit sales taxes to Indiana for the tax period July 2004 through March 2005. The Indiana Department of Revenue assessed the outstanding corporate sales taxes, interest, and penalty against the taxpayer personally. The taxpayer protested the assessment and a hearing was held. This Letter of Findings results.

I. Sales Tax -Responsible Officer Liability

Discussion

The proposed sales tax liability was issued under authority of IC § 6-2.5-9-3 that provides as follows:

An individual who:

- (1) is an individual retail merchant or is an employee, officer, or member of a corporate or partnership retail merchant; and
- (2) has a duty to remit state gross retail or use taxes to the department;

holds those taxes in trust for the state and is personally liable for the payment of those taxes, plus any penalties and interest attributable to those taxes, to the state.

Indiana Department of Revenue assessments are prima facie evidence that the tax assessment is correct. The taxpayer bears the burden of proving that the assessment is incorrect. IC § 6-8.1-5-1(b).

The taxpayer did not dispute that he was a party responsible for remittance of corporate sales taxes to the state for the period November 2000 – September 1, 2003. The taxpayer argued that he sold his interest in the corporation on September 1, 2003, and was not responsible for the remittance of sales taxes to Indiana after that date. The taxpayer presented substantial documentation indicating that he sold his interest in the corporation on September 1, 2003. The taxpayer sustained his burden of proving that he was not personally responsible for the corporate sales taxes after September 1, 2003.

Finding

The taxpayer's protest is sustained as to all tax periods after September 1, 2003.

KMA/JMM/DK/06/18/04